

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

*Jaime Altamirano, on behalf of himself and others
similarly situated in the proposed FLSA Collective
Action,*

Plaintiff,

- against -

127 Fourth Avenue Restaurant LLC (d/b/a Mocha Red
Steakhouse + Mixology Bar), and Naphtaly Abenaim,

Defendants.

Case No. 1:22-cv-10500 (CM)

**NOTICE OF MOTION TO
DISMISS PLAINTIFF'S
COMPLAINT**

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law in Support of Defendants' Motion to Dismiss Plaintiff's Complaint, and the Declaration of Bryn Goodman, Esq. in Support of Defendants' Motion to Dismiss Plaintiff's Complaint, dated June 29, 2023, and the exhibits annexed thereto, and upon all of the prior papers and proceedings in this case, Defendants 127 Fourth Avenue Restaurant LLC and Naphtaly Abenaim ("Defendants"), by and through their attorneys, Fox Rothschild LLP, will move before the Honorable Colleen McMahon, on a date and time to be determined by the Court, for an order pursuant to Rules 12(b)(1), 12(b)(5), and 12(b)(6) of the Federal Rules of Civil Procedure, dismissing Plaintiff's Complaint, in its entirety, with prejudice. Defendants further seek an order

granting Defendants costs, fees, and disbursements together with such other and further relief as the Court deems just, proper, and equitable.

Dated: New York, New York

June 29, 2023

Respectfully submitted,

FOX ROTHSCHILD, LLP

/s/ Bryn Goodman

Richard I. Scharlat, Esq.

Bryn Goodman, Esq.

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